

HUMAN SERVICES

DIVISION OF MENTAL HEALTH SERVICES

Patient Supervision at State Psychiatric Hospitals

Proposed Readoption: N.J.A.C. 10:36

Authorized By: Jennifer Velez, Commissioner, Department of Human Services

Authority: N.J.S.A. 30:1-12, 30:4-24.2, and 30:9A-10.

Calendar Reference: See Summary below for exception to calendar
requirement.

Proposal Number: PRN 2008-142

Submit comments by July 4, 2008 to:

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Legal Liaison

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The agency proposal follows:

Summary

Pursuant to N.J.S.A. 52:14B-5.1c, N.J.A.C. 10:36, Patient Supervision at State Psychiatric Hospitals, expires on November 17, 2008. The Department of Human Services (the Department), in conjunction with the Division of Mental

Health Services (the Division or DMHS) has reviewed these rules and has determined that their continued implementation would benefit both the public and patients at State psychiatric hospitals by delineating specific standards to ensure public safety and the effective delivery of high-quality mental health services.

As the Department has provided a 60-day comment period for this notice of proposal, this notice is excepted from the rulemaking calendar requirement, pursuant to N.J.A.C. 1:30-3.3(a)5.

The purpose of these rules is to provide uniform policies and procedures applicable to supervision determinations made by interdisciplinary treatment teams responsible for treatment planning in State psychiatric hospitals. Based on the concept of individualized decision-making, the rules balance effective treatment, personal liberty, and the prevention of harm.

The rules are organized into three subchapters. N.J.A.C. 10:36-1 delineates the four categories of the levels of supervision system. At each level, the clinical condition and related behaviors of the patient are considered in determining the structure and intensity of supervision necessary for both the patient's successful participation in treatment and a safe and therapeutic milieu for the patient, staff and the community at large. N.J.A.C. 10:36-2 provides a mechanism for the comprehensive review of the clinical treatment and management of certain hospitalized special status patients at State psychiatric

hospitals, including those patients involved with the criminal justice system. N.J.A.C. 10:36-3 defines factors and delineates procedures related to the transfer of involuntarily committed patients between State psychiatric hospitals.

Since the last promulgation of N.J.A.C. 10:36 (July 7, 2003 at 35 N.J.R. 2903(a)), the Department has monitored the implementation of the levels of supervision program to assess its effectiveness in furthering patients' recovery while also ensuring a safe and therapeutic environment for other patients, staff, and the visiting public. Recently, the Department has convened a task force to study the current practices of State psychiatric hospitals with regard to the levels system, security issues, care and treatment, and patients' rights. The Department has determined that amendment of N.J.A.C. 10:36 should be delayed to allow for incorporation of the task force's findings and recommendations, which would enhance the quality of these rules. To allow sufficient time for this input, the Department is seeking to propose N.J.A.C.10: 36 for readoption without amendments at this time. After thorough consideration of the task force's recommendations, the Department will propose substantive amendments to N.J.A.C. 10:36.

Social Impact

By providing uniform policies and procedures regarding patient supervision at State psychiatric hospitals within applicable legal parameters, the rules proposed for readoption will have a positive social impact on the patients at

those facilities and other parties interested in the quality of their care. The rules will help ensure that these patients receive effective treatment in an appropriate program consistent with applicable law and balanced with the need to protect the general public from potentially dangerous behavior by some patients.

These rules provide for consistency in the supervision determinations made by the interdisciplinary teams responsible for treatment planning. They are based on the concept of individualized decision-making that balances the objectives of effective treatment, personal liberty, and the prevention of harm. Since the rules operationalize the legal principle of “treatment in the least restrictive conditions necessary to achieve the purposes of treatment,” they will benefit patients, staff and the public.

Economic Impact

By providing uniform hospital policies and procedures regarding patient supervision, the rules proposed for readoption foster cost-effective programs, which is a form of social and economic savings for both patients and the general public. The Department does not anticipate a direct economic effect on any specific individuals by these rules. No additional administrative costs are required and no funding sources are affected.

Federal Standards Statement

A Federal standards analysis is not required because these rules are not subject to any Federal requirements or standards.

Jobs Impact

The rules proposed for readoption will neither generate nor cause the loss of any jobs.

Agriculture Industry Impact

The rule proposed for readoption would have no impact on agriculture in the State of New Jersey.

Regulatory Flexibility Statement

The rules proposed for readoption govern patient supervision at the State psychiatric hospitals. Being public institutions, these hospitals are not small businesses as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. Therefore, a regulatory flexibility analysis is not required.

Smart Growth Impact

It is not anticipated that the rules proposed for readoption will have an impact on the achievement of smart growth and the implementation of the State Development and Redevelopment Plan.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 10:36.